THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10589 of 2007

Dated: 06-07-2007

Between:

Chandragonda Peda Veeraiah.

..... PETITIONER

AND

The Mandal Revenue Officer, Kunavaram, Khammam, and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10589 of 2007

ORDER:

This writ petition is filed assailing the order dated 20.03.2006 passed by the Chief Commissioner of Land Administration, Government of Andhra Pradesh, in purported exercise of powers under Section 9(3) of the Andhra Pradesh (Scheduled Area Ryotwari Settlement) Regulation, 1970 (Regulation No.II of 1970, for brevity), whereby and whereunder the order dated 07.01.2002 passed by the Special Commissioner and Director of Settlements in A.P.Nos.176/82 and 16 of 1988 were set aside duly confirming the order passed by the Settlement Officer, Bhadrachalam, in Case No.2064 of 1977 dated 17.07.1980, by which the petitioner was refused a ryotwari patta under Regulation No.II of 1970.

The brief fact of the matter is as follows. The petitioner alleges that the land in an extent of 0.68 hectares in R.S.No.107/5 and 0.83 hectares in R.S.No.120/2 situated at Pochavaram Village, Kunavaram Mandal, Khammam District, was in possession of his forefathers. The Settlement Officer granted patta in Case No.2064 of 1977 dated 17.07.1980 in favour of second respondent. The petitioner/his father then filed an appeal before the Special Commissioner and Director of Settlements, being A.P.No.176 of 1982, against grant of patta to second respondent. In 1988, the Director of Settlements initiated *suo motu* proceedings in A.P.No.16 of 1988. The *suo motu* proceedings were dropped and the appeal of the petitioner/his father was allowed on 07.01.2002. Second respondent then moved appeals under Section 9(3) of Regulation No.II of 1970, being appeal Nos.L1/182 and L1/183 of 2002. By impugned order dated 20.03.2006, these appeals were allowed confirming the order of the Settlement Officer, who granted patta to second respondent.

Though the order was passed more than a year ago, the writ petition is filed now. The learned counsel for the petitioner explains that the petitioner was suffering penury and therefore, he could not immediately pool up funds for engaging a lawyer to impugn the order of the Chief Commissioner. Therefore, this point need not be pursued further. Insofar as the merit of the case is concerned, the Chief Commissioner found that the Director of Settlements initiated *suo motu* enquiry after lapse of more than eight years, which is not permissible under Section 9(3) of Regulation No.II of 1970, according to which an appeal has to be preferred before the Director of Settlements within sixty days. Secondly there is finding of the Director of Settlements that the land, which was registered as *vettimanyam,* was given one

G.Ramachandra Raju, whose name was entered in the records. The Chief Commissioner again verified the pre and post abolition records of the Village with reference to the field inspection and found that the Settlement Officer was correct in granting patta to second respondent. In this context, the Chief Commissioner observed as under.

> But, a perusal of the orders passed by the Settlement Officer reveals that the Settlement Officer had conducted suomoto enquiry as provided under Section 9 of A.P. Regulation 2/70 and made local enquiry in the village and verified the pre & post-abolition records of the village with reference to the field inspection and then granted Ryotwari Patta to the Appellants herein i.e., Sri Totakura Narayana, S/o Kannayya after arriving to a conclusion that the Appellant and his predecessors are in title of the lands prior to the notified date of the Estate till the Regulation 2/70 came into force on 01.07.1971 and that the land had been in continuous possession and enjoyment of non-tribals right from 1917 onwards as required under L.T. Act, 1/1917 and L.T. Regulation 1/59 as amended by Regulation 1/70. The order of the Settlement Officer dt.17.07.1980 passed in Case No.2064/77 reveals that after founding that the Appellants herein are in physical possession and enjoyment of the schedule lands, the Settlement Officer had granted Ryotwari Patta after conducting denovo enquiry after following the due procedure laid down under the A.P. Regulation 2/70.

Whether a person satisfies the conditions mentioned in Section 7 of Regulation No.II of 1970 to claim a ryotwari patta and whether the survey and settlement record supports the claim of such person (the petitioner/ his father in this case) are matters which are in the realm of fact. These cannot be gone into in a writ petition unless and until gross perverse is shown to exist. In this case, the Chief Commissioner considered all the issues involved in the matter and came to the correct conclusion. Apart from this, though the order of the Chief Commissioner of Land Administration is challenged, neither he nor the Director of Settlements are arrayed as party respondents. Furthermore as correctly observed by the Chief Commissioner, an appeal lies to the Director of Settlements within sixty days from the date of communication of the decision of the Settlement Officer. In this case, there is delay of eight years when the Director of Settlements initiated *suo motu* proceedings.

The writ petition is devoid of merits and the same is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

06th July, 2007
ghn